IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 18584 of 2004(K)

PETITIONER:

FR.ANTONY KAKKANATTU, DIRECTOR,
THE THIRUVALLA PASTORAL AND CATECHETICAL
CENTRE (SHANTHINILAYAM) KULAKKADU, THIRUVALLA.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS:

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1. THE STATE OF KERALA REPRESENTED BY THE
SECRETARY, LOCAL ADMINISTRATION (B) DE[ARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE THIRUVALLA MUNICIPALITY,
REPRESENTED BY THE SECRETARY, THIRUVALLA
MUNICIPALITY, THIRUVALLA.

3. THE MUNICIPAL COUNCIL, THIRUVALLA,
(APPELLATE AUTHORITY) REPRESENTED BY THE
SECRETARY, THIRUVALLA MUNICIPALITY.

R2 & R3 BY ADV. SRI.S.SUBHASH CHAND
SRI.JOSE P.GEORGE
SMT.TEENA CHERIAN
R1 BY ADV. SRI. K.J. MUHAMMED ANSAR,GOVERNMENT PLEADER
SRI.S.RAMESH BABU, SC, COCHIN CORPN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 18584 OF 2004

Dated this the 30th day of March, 2007

JUDGMENT

The Director of the Thiruvalla Pastroal and Catechetical Centre is a society registered under the Travancore-Cochin, Literary, Scientific and Charitable Registration Act is aggrieved by the denial of exemption from the assessment of tax for its building by the Thiruvalla Municipality. According to the petitioner, the objectives for which the Society has been established is to impart education, social, cultural, moral and religious themes and also to work for the upliftment of women, children and socially and economically backward communities. The centre is working under the Malankara Catholica Diocese, Thiruvalla. The Thiruvalla Municipality assessed tax for the building and the request for exemption was rejected. Subsequently the petitioner filed a revision before the Government and the Government dismissed the revision petition by Ext.P7 order. Challenging the order of the municipality and the order of the Government, the petitioner filed OP No.257 of 1999 before this Court. This Court disposed of that Original Petition by Ext.P9 judgment. After quashing Ext.P7 order this Court directed the Government to reconsider the matter afresh. The Government, however, has passed Ext.P10 order upholding the decision of the

Municipality.

2. Impugning Ext.P10 on various grounds, the petitioner has filed this Writ Petition seeking a writ of certiorari to quash Et.P4 order passed by the Municipal Council on the appeal preferred by the petitioner and Ext.P7 earlier order passed by the Government and Ext.P10 present order of the Government. The petitioner also prays for issuance of a writ of mandamus commanding respondents(the State of Kerala-R1, Thiruvalla Municipality-R2 and Thiruvalla Municipal Council-R3) to take immediate steps to exempt the building of the petitioner from building tax. The other relief prayed for in the Writ Petition is issuance of appropriate directions to the 2nd respondent to forbear from proceeding with realisation of tax pursuant to Ext.P8 series of demand notices.

3. Very elaborate counter affidavit has been filed by respondents 2 and 3 and also by the 1st respondent. Though it was very elaborate and persuasive submissions which were addressed before me by Sri.M.V.S.Nampoothiri, learned counsel for the petitioner, I am unable to grant relief.

In view of the ratio which emerges from the various decisions cited before me, namely, **Cherumpushpam Hospital Trust v. Pala Municipality** (2005 (2) KLT 234), **Aliya Arabic College v. Kasargod Municipality** (1988 (2) KLT 11) **Bhagavathy Temple Trust v. Corporation of Trivandrum** (2001 (1) KLT 108), it will be very difficult to accept the argument of Mr.M.V.S.Nampoothiry, counsel for the

petitioner that the buildings which are subject matter of the present Writ Petition is a 'Choultry'. Accordingly, the Writ Petition will stand dismissed. But I am sure that since the issue has been pending before this Court so long and the petitioner was bonafide pursuing his claim, the Municipality will not impose any penal interest liability on the petitioner, if the tax liability is discharged within three months of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

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